

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

ANTHONY ALEX ROLL,

Defendant/Movant.

Cause No. CR 11-133-BLG-SPW
CV 16-078-BLG-SPW

ORDER

This matter comes before the Court on Defendant/Movant Roll's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255. Roll is a federal prisoner represented by counsel.

Roll seeks relief under *Johnson v. United States*, __ U.S. __, 135 S. Ct. 2551 (2015), which was made retroactive to final judgments by *Welch v. United States*, __ U.S. __, 136 S. Ct. 1257 (2016), *Sessions v. Dimaya*, 138 S. Ct. 1204, 1201 (2018), and under the Supreme Court's extension of those decisions to the virtually identical language of 18 U.S.C. § 924(c)(3)(B) in *United States v. Davis*, __ U.S. __, 139 S. Ct. 2319, 2323–24 (2019). The United States concedes Roll's motion. *See Resp. to Order* (Doc. 214) at 2.

Accordingly, IT IS ORDERED:

1. The Order of May 4, 2018 (Doc. 212) is REINSTATED. Based on that

Order and the Supreme Court's decision in *Davis*, Roll's motion to vacate, set aside, or correct the sentence under 28 U.S.C. § 2255 (Doc. 181) is GRANTED.

2. Roll's conviction on Count 2 is VACATED.

3. Judgment in the civil case is VACATED. When an amended judgment is entered in the criminal case, the clerk shall close the civil file by entering judgment, by separate document, in favor of Roll and against the United States.

4. The United States Marshals Service shall transport Anthony Alex Roll, BOP # 11530-046, to the District of Montana for resentencing. Roll must be present in Montana and available to consult with counsel at least 30 days before the hearing.

DATED this 13th day of September, 2019.



Susan P. Watters
United States District Court

cc: USPO
USMS